

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ORDER

Plaintiff, a state prisoner appearing *pro se* and *in forma pauperis*, brings this action pursuant to 42 U.S.C. § 1983.

Magistrate Judge Gary M. Purcell's Supplemental Report and Recommendation of February 6, 2008 is before the court. (Report, doc. no. 12.) In his report, Magistrate Judge Purcell recommends that all of plaintiff's claims in the complaint be dismissed with or without prejudice as set forth in detail in the report under 28 U.S.C. §1915(e)(2)(B) except for plaintiff's claim in count two of unconstitutional conditions of confinement with respect to the adequacy of the food provided to him at the Lawton Correctional Facility and except for his claims in count three concerning Defendant Underwood.

The report further notifies plaintiff that dismissal of this action pursuant to §1915 (e)(2)(B) may constitute one “strike” pursuant to 28 U.S.C. § 1915(g) upon affirmance or waiver of his opportunity to appeal. Plaintiff was advised of his right to file an objection to the report with the clerk of this court, and he did so, filing an objection on February 22, 2008. (Doc. no. 13.)

As required by 28 U.S.C. §636(b)(1), the court has reviewed all objected to matters *de novo*. Having concluded that review, and after careful consideration of

defendants' objections, the record, and the relevant authorities, the court finds that it agrees with the Report of the magistrate judge and that no purpose would be served by stating any further analysis here.

Accordingly, the Report and Recommendation of Magistrate Judge Gary M. Purcell is **ACCEPTED, ADOPTED, and AFFIRMED** in its entirety. Plaintiff's claims are dismissed with or without prejudice as set forth in more detail in the report except for plaintiff's claim in count two of unconstitutional conditions of confinement with respect to the adequacy of the food provided to him at the Lawton Correctional Facility, and except for his claim in count three concerning defendant Underwood. As the recommendations now adopted from the magistrate judge's report only partially dispose of the issues originally referred to the magistrate judge, this order does not conclude this matter, and this matter is referred back to the magistrate judge for further proceedings.

Dated this 28th day of February, 2008.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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